

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**May 24, 2004**

**IN RE:**

**AMENDMENT TO THE INTERCONNECTION  
AGREEMENT NEGOTIATED BETWEEN  
BELL SOUTH TELECOMMUNICATIONS, INC.  
AND ADELPHIA BUSINESS SOLUTIONS  
OPERATIONS, INC. AND ADELPHIA  
BUSINESS SOLUTIONS OF NASHVILLE, L.P.**

**DOCKET NO.  
04-00077**

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**ORDER APPROVING  
THIRD AMENDMENT TO THE INTERCONNECTION AGREEMENT**

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This matter came before Chairman Deborah Taylor Tate, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on May 10, 2004, to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the third amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Adelphia Business Solutions Operations, Inc. and Adelphia Business Solutions of Nashville, L.P.

The original interconnection agreement and the first amendment between these parties were filed on May 4, 2001, and were assigned Docket No. 01-00407. At a regularly scheduled Authority Conference on July 24, 2001, a majority<sup>1</sup> of the Directors voted to take no action on the interconnection agreement and first amendment; therefore, by operation of 47 U.S.C. § 252(e)(4), the

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<sup>1</sup> Then Chairman Kyle did not vote with the majority. Instead, she voted in favor of approval. The terms of the former Directors of the Authority, Chairman Sara Kyle, Director H. Lynn Greer, Jr., and Director Melvin J. Malone, expired on June 30, 2002. Chairman Sara Kyle was reappointed and commenced a new term as a Director of the Authority on July 1, 2002. Deborah Taylor Tate, Pat Miller, and Ron Jones began terms as Directors on July 1, 2002. Director Tate was appointed and commenced a term as Chairman of the Authority on July 1, 2003. Pursuant to the requirements of the amended provisions of Tenn. Code Ann. § 65-1-204, a three member voting panel consisting of Chairman Deborah Taylor Tate, Director Sara Kyle and Director Ron Jones was randomly selected and assigned to this docket.

interconnection agreement and first amendment thereto were deemed approved on August 2, 2001. The second amendment was filed on January 29, 2003, under Docket No. 03-00078, and was approved at a regularly scheduled Authority Conference on March 17, 2003. The third amendment, which is the subject of this docket, was filed on March 3, 2004.

Based upon a review of the amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the service area of BellSouth Telecommunications, Inc.
- 3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).<sup>2</sup> Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.
- 5) No person or entity has sought to intervene in this docket.

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<sup>2</sup> See 47 U.S.C. § 252(e)(2)(B).


6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

**IT IS THEREFORE ORDERED THAT:**

The Petition is granted, and the third amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Adelphia Business Solutions Operations, Inc. and Adelphia Business Solutions of Nashville, L.P. is approved and is subject to the review of the Authority as provided herein.

  
Deborah Taylor Tate, Chairman

  
Sara Kyle, Director

  
Ron Jones, Director